



# **Quarterly and Legislative Regulatory Report**

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**June, 1989 A.N.A.'s 80th Year**

**An Update and Service  
for Members of  
The Association of National Advertisers, Inc.**



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This Quarterly Report is designed to provide you with timely news of A.N.A. activities and related matters. We hope it stimulates comments and inquiries and keeps you up to date on events in the advertising world.

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## PRESIDENT'S MESSAGE

### *An Effective Voice*

The Survey of A.N.A. Member Needs outlined in our March Quarterly Report confirms that "...advertisers want the Association to continue to do what it has been doing -- only more so." This significant finding prompted us to begin to examine how we conduct our four-pronged mission of disseminating information: serving as a representative of advertisers in industry and public forums; conducting professional development programs; and representing advertisers in federal and state legislative/regulatory arenas.

This process has been facilitated by a project initiated by our Advertising Management Committee. The Committee developed a list of critical issues through a survey of its membership and clarified and organized responses into eight related groupings (please see article on page 4). Subsequently, we asked Members to rank them. Results now have been tabulated.

### **A changing marketplace**

The shift from national-to-regional-to-local focus; changing consumer demographics; the increasing influence of Hispanics and other minorities; increased competition as a result of new product infusions; and the effect of increased consumer knowledge and sophistication on advertising and marketing -- all indicators of a changing marketplace -- are highest on the list of concerns shared by A.N.A. Members.

The impact of government regulations, another symptom of a changing marketplace, also is a key concern to Members. The Legislative/Regulatory section of this Report chronicles various attempts to ban, censor and/or restrict truthful advertising of lawful products; threats at both the state and federal level to tax advertising, the catalytic factor in economic equations and the engine that drives our nation's economy; and patchwork quilt initiatives by the state attorneys general to federalize and thereby balkanize regulation of advertising.

### **Two paradoxes**

As I survey the several dimensions of this changing scene, in which change appears to be the only constant, and as A.N.A. begins its 80th year, I share with you two paradoxes that

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DeWitt Helm

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## **An Effective Voice (cont'd)**

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trouble me deeply. At the very time when deep-seated hunger for freedom of expression is so ingrained in the peoples of totalitarian countries that thousands are willing to die for their convictions, we in this country have legislators and regulators who seem intent upon restricting truthful speech for lawful products and services. At the very time when the European community is moving toward 1992 and relaxing trade barriers and other economic restraints, we in this country have elected public officials who seem intent upon placing unnecessary burdens and encumbrances on interstate commerce.

These circumstances present unprecedented challenges and opportunities to A.N.A. as this Association increasingly strives to be an effective voice for regional and national advertisers. At our Annual Meeting and Business Conference in October, distinguished speakers will address these issues in depth to help assist our Members in concentrating their resources against these concerns and the opportunities they present. On behalf of our Board of Directors I also will address the imperative of outlining how A.N.A., as the only association which exclusively represents regional and national advertisers, plans to direct its energies to serving as an effective voice.

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## **Quarterly Report**

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## **A.N.A. Identifies Top Issues Facing National Advertisers**

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 The changing marketplace...the emergence of complex new media alternatives...the impact of government regulation...changing client/agency relationships...changing relationships between manufacturers and distributors...advertisers' corporate restructuring...the changing nature of global markets and marketing...the explosion of marketplace research.

Advertisers are grappling with these eight issues and the complex subcategories that comprise them, according to a survey released by A.N.A. in May. Identified first within the Association's Advertising Management Committee, the list was circulated to the membership at large in a formal survey developed and conducted by the independent research firm ARBOR, Inc. Respondents were invited to rank the eight issues from the perspective of their individual companies and again from their perceptions of the concerns of national advertisers as a group.

The survey, mailed to Member Companies in March revealed "the changing marketplace" as the area of chief concern for national and regional advertisers. Demanding heightened precision in regional and local marketing approaches, the changing marketplace was characterized by the Advertising Management Committee as one of rising minority influence, increasing consumer sophistication and narrowing consumer demographics. The infusion of new products was also seen as fuel for accelerated competition within this environment.

### **Across the board agreement**

The detailed survey tabulations concluded by ARBOR were broken out into categories that included industry (consumer goods versus business-to-business companies) and advertising budget (under and over \$60 million in annual advertising expenditures). Across the board all respondents saw the changing marketplace as the industry's chief concern. Only business-to-business respondents differed from the norm, ranking the issue of the changing marketplace first in importance for *all* national advertisers but third in importance for their own companies, behind their concerns about advertiser restructuring and the explosion of marketplace research.

In response to the survey of the A.N.A. membership, the Association has made these issues the basis for future programs. "Critical Issues Facing National Advertisers" is the theme of A.N.A.'s 80th Annual Meeting and Business Conference. In addition, the survey of critical issues will serve as a guide to help develop other A.N.A. programs to answer the needs of advertising professionals and to make their advertising dollars work more efficiently.

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Advertising executives from across the country will gather at one of the nation's most beautiful resort locations for the industry's premier event of the year, A.N.A.'s 80th Annual Meeting and Business Conference, October 1-4, at The Homestead in Hot Springs, Virginia.

Traditionally a forum for the exchange of information, the meeting provides an invaluable networking opportunity as well. Each year scores of professionals benefit from new and renewed business contacts. The program of the intensive Business Conference over the years has drawn thousands of participants eager to stay ahead of the trends.

This year, these trends were identified scientifically, as the A.N.A. membership participated in a survey to rank their main concerns and the challenges they see facing advertisers today and in the coming decade. From this study came a list of eight "Critical Issues Facing National Advertisers." And this list has formed the framework for the 80th Annual Meeting and Business Conference program. (See story, page 2.)

#### **Celebrity speakers**

Among those who have accepted invitations to address A.N.A. are: Tom H. Barrett, president, chairman and CEO, The Goodyear Tire & Rubber Company; Reginald Brack, chairman, president and CEO, The Time Inc. Magazine Company; Patricia Carbine, president, Ms. Foundation for Education and Communication, Inc.; Robert Dewar, professor, Organizational Behavior, Kellogg Graduate School of Management, Northwestern University; Ken Dychtwald, president and CEO, Age Wave, Inc.; Campbell Soup Company Ltd VP Robert J. Galoway, chairman, and M. David Keil, president, the Audit Bureau of Circulations; DeWitt Helm, president, A.N.A.; Alexander Kroll, chairman, president and CEO, Young & Rubicam Inc.; Charles Kuralt, correspondent, CBS News; William LaMothe, chairman and CEO, Kellogg Company; William McGowan, chairman and CEO, MCI Communications Corporation; William Phillips, former chairman, The Ogilvy Group; Burt Manning, chairman and CEO, J. Walter Thompson; and Thomas Wilson, McKinsey & Company.

These are the celebrities who will step into the spotlight at the Business Conference, but the audience, too, will be filled with prominent advertising executives making the meeting in beautiful Hot Springs one of the most provocative and productive events on calendars throughout the advertising community.

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## **A Roster of Leaders for the 80th Annual Meeting and Business Conference**


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## **JPC and AFofM Reach Tentative Agreement With No Wage Increases**

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Mark your calendar now. We'll see you in Virginia for intensive general sessions and the once-a-year business meeting where we have the opportunity to hear from you personally as members of an organization that is marking its eighth decade of serving the interests of national and regional advertisers.

 The 1991 American Federation of Musicians (AFofM) contract was negotiated by the A.N.A./A.A.A.A. Joint Policy Committee on Broadcast Talent Union Relations (JPC) representing national advertisers, JPC authorizers, and their agencies. A tentative agreement, following marathon talks, was reached at 1:00 a.m., Saturday, April 29th, one hour into the day before the contract expired, Sunday, April 30.

While the new contract was still subject to ratification at the time this Report went to press, the JPC was satisfied that the tentative agreement will reasonably accommodate both the interests of advertisers and agencies on the one hand and those of the AFofM and its musicians on the other.

"This was an equitable agreement for both parties overall," said chief negotiator John McGuinn at the conclusion of the negotiations, "and the negotiation process went smoothly."

When ratified, the new contract will govern the two-year period beginning May 1, 1989, and ending April 30, 1991. It provides for no general increase in wages or in pension funds for AFofM union members. However, health and welfare payments per musician will rise from \$7 to \$10 per session and the twelve-month foreign use rate will rise from \$45 to \$50.

The major AFofM initiative in the negotiations was to reduce the permitted number of commercials produced from a recording session. Although the JPC rejected the AFofM's initial proposal, under the terms of the new contract, controls and limitations will be placed on the number of commercials that may be used from a given recording session in initial thirteen-week cycles without the payment of additional fees.

Both parties were unable to agree to a formula for payments to musicians whose commercials are inserted in videocassettes, and agreed finally that such payments will continue to be negotiated on a case-by-case basis.

Meanwhile, the JPC has already begun to prepare for its next round of talent union negotiations with the SAG/AFTRA/SEG contracts which expire a year and a half from now, on February 6, 1991.





*Attendance soared at the 1989 Business-to-Business Conference held in April in sunny Coral Gables, Florida, and so did the spirits of the Business-to-Business Committee. Captured here outside The Biltmore Hotel, the group spent its days in a forum devoted to success through diversity in marketing.*

From Columbia Pictures in Burbank to The Coastal Corporation in Houston to Domino's Pizza in Ann Arbor and to the constellation of companies along the eastern seaboard, A.N.A. reaches from coast to coast. As part of a communications effort to keep all Member Companies abreast of A.N.A.'s wide range of vital activities, a series of regional forums have been initiated to take the Association to its members.

Last year, A.N.A. staff met with advertisers in a Western Pow-Wow in Los Angeles. This year, the first A.N.A. Regional Forum in 1989 was held on June 8th when DeWitt Helm, Dan Jaffe, Peter Eder, and Peter Thomas of the A.N.A. staff flew to Chicago for an update of A.N.A. activities at the Midwest Regional Forum.

"We are delighted to have had this opportunity to discuss how A.N.A. is working for national advertisers and to gain insight into their needs," DeWitt Helm said. "And we are particularly pleased with the turnout for this first midwestern meeting."

Twenty-two advertising and marketing professionals from seventeen companies attended the informative session for a legislative and regulatory update and reports on the wide variety of A.N.A.'s committee and professional development activities. Member Companies represented at the Forum included the American Dairy Association, Amoco Chemical Company, The First National Bank of Chicago, The Goodyear

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## **A.N.A. Holds First Midwest Regional Forum**

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## ***A Brief Summer Hiatus... A.N.A. Events Mark Fall Calendars***

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Tire & Rubber Company, Kemper Group, Kraft USA, McDonald's, Miles Inc., Southwestern Bell Telephone, Steelcase Inc., United Airlines and the Wm. Wrigley Jr. Company.

The Forum also was attended by non-member companies, including Alberto-Culver Company, Budget Rent a Car Corporation, Motorola Inc. and Sears, Roebuck & Company, companies which we hope will -- like Visa, U.S.A. at last year's Western Pow-Wow -- participate as A.N.A. members.

As we went to press registrations were still coming in for the Corporate Communications Workshop on June 15th, the last of our spring events, and the programs were wrapped up for the new, two-day Media Workshop, September 12-13. Plans also were under way for a busy October, with the 80th Annual Meeting and Business Conference in Hot Springs, Virginia, October 1-4, as well as for the first Direct Marketing Workshop, jointly hosted by A.N.A. and the Direct Marketing Association, two weeks later, on October 17, at the Waldorf-Astoria in New York. The program for the new Advertising and Marketing Management Research Workshop, which debuts on November 15th at The Plaza, is in the mail as well.

The Board of Directors meets on June 21st, and then we turn the corner into the long, hot days of summer when A.N.A. becomes a beehive of air-conditioned activity in preparation for its hectic fall season. There are regulatory battles to fight in Washington and a full schedule of committee activities.

In the summer months, the Television Commercial Production Management Task Group will be busy on a series of management bulletins and the Business-to-Business Committee will hold its first meeting since its highly successful workshop last April. In August, the Promotion/Merchandising Committee begins planning for 1990.

Then September gathers steam a few weeks later with the new, two-day Media Workshop at The Plaza. The Advertising Research Committee meets one last time before the Advertising and Marketing Management Research Workshop premiers. The Board of Directors convenes on September 14th and then again at the end of the month before the 80th Annual Meeting and Business Conference kicks off October in Hot Springs.

Meanwhile, advertising professionals from around the country have written A.N.A. Seminars into their calendars -- in ink -- throughout the summer months and into the fall.



A.N.A. Vice-Chairman John Ruhaak was busy with A.N.A. events in May. He was a guest speaker at the Advertising Financial Management Conference in Florida just days after he attended an A.N.A. Board meeting in Washington.

Five new advertising and marketing publications are hot off the presses at A.N.A. and have been hot sellers as well. The 1989 Tie-In Promotion Service (TIPS) directory, published for more than 20 years under the auspices of the Promotion/Merchandising Committee, has an attractive new layout and this year lists more than 200 contacts at 140 U.S. companies.

The Advertising Financial Management Committee has produced the triennial A.N.A. survey report *Current Advertiser Practices in Compensating Their Advertising Agencies* as well as a revised edition of its popular reference companion, *Agency Compensation -- A Guidebook*, which had its first printing in 1969 and has been completely reconstructed and revised.

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## The A.N.A. Bookshelf

### Don't Let the Next Quarter Pass Without Ordering Your Copies of These New A.N.A. Publications!

<input type="checkbox"/> <i>Current Advertiser Practices</i> .....	\$25
in <i>Compensating Their Advertising Agencies</i>	
<input type="checkbox"/> <i>Agency Compensation -- A Guidebook</i> .....	\$25
<input type="checkbox"/> <i>Guidelines for Advertiser/Agency Contracts</i> .....	\$10
<input type="checkbox"/> <i>TIPS '89</i> .....	\$20
<input type="checkbox"/> <i>Current Company Practices</i> .....	\$15
in the <i>Use of Corporate Advertising</i>	
Subtotal*	

When ordering,  
please clip  
this form  
and be sure to  
fill in both sides.

(Residents of NYC, add 8.25% sales tax; of NYS, add 4 % sales tax)

Shipping and handling add \$3.50

\*Non-Members add \$10 to price of each book.

Total\*

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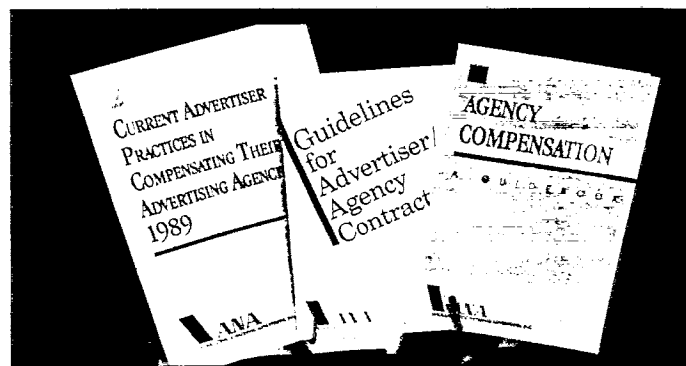
Diner's Club

Card No. \_\_\_\_\_ Expiration Date \_\_\_\_\_

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The Advertising Management Committee has produced a new publication entitled *Guidelines for Advertiser/Agency Contracts* that provides step-by-step direction through the legal contract that advertisers and their agencies must establish for a solid working relationship. And, the Corporate Communications Committee has issued its survey report, *Current Company Practices in the Use of Corporate Advertising*, a review of the objectives, frequency, audience, expenditures and other factors in the corporate advertising practices of major U.S. companies.

All of these are listed in the new A.N.A. Publications Catalogue, which features a special introductory price of \$250 for the entire A.N.A. Library Collection. For the first time, orders may be placed by credit card. The Publications Catalogue was sent to Member Companies in May. Additional copies are available free from the Publications Department.



(Please fill in both sides of order form.)

Name \_\_\_\_\_  
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Company \_\_\_\_\_  
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Return to: Publications Department  
Association of National Advertisers, Inc.  
155 East 44th Street  
New York, NY 10017

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**Companies have been taking advantage** of the intensive learning environment provided by A.N.A. Seminars. Reports keep coming back about the strength of the newly updated programs. Last fall, the Promotion Strategy Seminar initiated a dynamic new curriculum, and this spring, the Creative Advertising Seminar followed suit. Seminar participants praise the hands-on learning environment and the opportunity to test skills in an organized series of case studies and group discussion.

Nancy Salz and Jack Keil, who teach the Creative Advertising Seminar, receive rave reviews for their leadership of the new course. "Bravo to Nancy!" wrote one participant from the April session. "Her presentation style is clear, thought-provoking, entertaining -- her critiques insightful." "The experience that Jack Keil brings to this seminar offers depth and a great resource," observed another participant from the May session.

The new program features techniques for advertising a product from positioning statements to creative strategies to execution. Participants learn how to evaluate creative executions and gain confidence in their role as clients. Team exercises involve candid discussion and critiques. One participant observed, "This is an environment that is well set for learning."

The next sessions of the Creative Advertising and the Promotion Strategy Seminars will be held August 28th and September 18th. The Media Strategy Seminar will also be held at the September 18th session.

**"Back then, there were few worries** about regulatory or governmental interference in the advertising process," says Claire Fisher of the organization she joined in 1951 as a correspondence secretary to the president. "We were more involved in agency relations, and our work product was largely in committee studies and reports."

Advertising wasn't completely trouble-free in those years. In fact, the year Claire joined A.N.A., the Congressional Joint Committee on the Economic Report proposed a nearly 25 percent excise tax on advertising. But that type of legislative and regulatory initiative seemed to die sudden and natural deaths. In 1951, legislators serving on the Committee disclaimed responsibility for their own proposal. It came to naught.

Over the years, though, Claire saw all of that change. In 1953 she was given responsibility for setting up the A.N.A. Member Records Department which she managed until 1961. She then became administrative assistant to the newly elected

## ***The Vitality of A.N.A. Seminars***

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## ***Thirty- Eight Years Ago At A.N.A.***

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## Years Ago (cont'd)

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*Our "resident grammarian,"  
Claire K. Fisher, who joined  
A.N.A. 38 years ago, is retiring.*

president of the Association, Peter Allport, who succeeded Paul West, A.N.A.'s first president. Now, regulatory initiatives began to crop up with alarming regularity. In 1954, for example, New York City initiated an effort to extend the City sales tax to cover agency services. Other ad tax issues surfaced in Pennsylvania, New Jersey, Arkansas, Massachusetts, Rhode Island and Iowa.

"In retrospect," says Claire, "while there were brush fires for A.N.A. to fight -- the growing pressure to drop tobacco advertising from the broadcast media, for instance -- I remember we very seriously considered the decision to set up our Washington office and to register as a lobbyist."

The hot issues in the early '70s were the proposed F.T.C. ban on advertising directed to children and the clamor about deceptive advertising which led to the formation of self-regulating bodies like the National Advertising Review Board under the aegis of the Council of Better Business Bureaus in which A.N.A. played a leadership role.

"It's been a fascinating way to spend one's career," Claire says of her years at A.N.A. "I'll continue to keep an eye on A.N.A. in the industry news." But first, she told us, she and her husband John Ball, himself a former advertising agency executive, will travel, beginning with their hometown, Manhattan, which they plan to see "as we've never had time to before."

*Good wishes are also  
in order for staffer  
Joe Pasquale who  
celebrated his third  
decade of service with  
the Association. Joe,  
still going strong after  
30 years with A.N.A.,  
continues his early-  
bird habits in the*



*Communications Services Department where over the years  
countless documents pertinent to advertisers have passed  
through his hands in the A.N.A. mailroom.*

When the board of directors met in May, it unanimously approved President DeWitt Helm's recommendations for senior staff promotions. Dan Jaffe was promoted from senior vice president to executive vice president of government relations. Peter Eder was promoted from vice president to senior vice president of member services with responsibility for both committee operations and member relations. Clark Holt, who formerly was vice president and assistant to the president, also became a senior vice president and is now responsible for A.N.A.'s professional development programs. Finally, Frank Mortensen and Renee Paley each became vice presidents. Frank, who is A.N.A.'s comptroller and secretary, gained responsibility for data processing, member records and personnel administration, and Renee, who heads the communications department, received additional responsibilities for communications services which handles production of all printed materials and mailings for the Association. Congratulations to Dan, Peter, Clark, Frank and Renee!



In May, Don Farley joined A.N.A. as manager, Systems and Records, reporting to Frank Mortensen. In his new position, Don is responsible for the Association's word processing, list processing and desktop publishing computer systems as well as for member records. Prior to joining A.N.A., he worked at Scholastic Inc. in word processing services where he also coordinated desktop publishing activities. He holds a bachelor's degree in psychology from Graceland College in his native Iowa. He lives in Manhattan.

Elinor Steffensen-Smith was appointed assistant to the president effective in June. In her new position, she will work closely with the Association's newly organized Systems and Records group. Elinor, a native of Denmark, was graduated from Tietgen College and engaged in advanced studies at the University of Tubingen. She has worked at Grey Advertising, the Community Hospital at Glen Cove and Peat Marwick Main & Company. She and her husband, George Smith, and their son, Chris, live in Glen Cove, New York.



## **A.N.A. Promotes Senior Staff Members**

## **New Faces at A.N.A. in New York**

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## ***...And In the Washington Office***

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## ***New Members, New Reps***

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Meanwhile, the Government Relations Office welcomed **McNair Bishop** as a legislative analyst. Reporting to Dan Jaffe, she is part of the team which closely monitors all legislative and regulatory initiatives on the Hill and in the states and takes action where the interests of regional and national advertisers are concerned. Before joining A.N.A., she was a paralegal at the law firm of Covington & Burling and most recently a legal assistant at the Union Labor Life Insurance Company. A graduate of Davidson College, McNair and her husband, Diggs, are residents of Arlington, Virginia.



### ***New A.N.A. Member Companies and Their Member Representatives***

American Brands	Roger W. W. Baker Director, Communications
Duracell, Inc.	Charles E. Kiernan Vice President, Marketing
T. Roe Price Associates, Inc.	Edward C. Bernard Vice President

### ***New A.N.A. Member Representatives at Member Companies***

Apple Computer, Inc.	Bruce Mowery, Director Marketing Communications
Avon Products, Inc.	Gail Blanke, Vice President Marketing Communications
Hanes Hosiery	Carol Mabe Vice President, Marketing
Hughes Aircraft Company	Alma Gonzalez, Manager Corporate Advertising
New York Life Insurance Company	Linda Staniar, Vice President Public Relations



<b>The Travelers Companies</b>	Ed Faruolo, Director Advertising & Promotion
<b>Wendy's International, Inc.</b>	Stephen B. Hickey Vice President Corporate Marketing
<b>Westin Hotels &amp; Resorts</b>	Sue Brush, Director Corporate Communications



## **A.N.A. Hosts World Federation of Advertisers**

*Some of the speakers who participated in the program of the 37th General Assembly of the World Federation of Advertisers, hosted by A.N.A. in Washington, D.C. during the first week in May, included (top to bottom): Don Linehan of 3M in Europe; Brahm Vasudeva of Hawkins Cookers, India; and Professor Burt Neuborne of New York University School of Law. Keith Monk (l.) and Paul deWin of the WFA presided over the directors' meetings.*

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**New  
A.N.A.  
Committee  
Members**

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**ADVERTISING FINANCIAL MANAGEMENT COMMITTEE**

Joseph Mitchell, Division Controller  
Miles, Inc.

Hank W. Weed  
Director, Consumer Influence Operations  
General Motors Corporation

Maxine S. Goldberg, Vice President/Director  
Purchasing & Advertising  
The Dial Corporation

**ADVERTISING MANAGEMENT COMMITTEE**

Robert C. Springer, Director, Advertising Services  
Nabisco Brands Inc.

**ADVERTISING RESEARCH COMMITTEE**

Steve Hollander, Market Research Director  
Clorox Corporation

**BUSINESS-TO-BUSINESS COMMITTEE**

Thomas J. Paine, Manager  
Business Marketing Communications  
GTE Corporation

Robin Reddell, Marketing Communications Manager  
Hewlett-Packard

**COOPERATIVE ADVERTISING & TRADE SUPPORT COMMITTEE**

James Pascover, Advertising Manager, Retail Stores  
The Goodyear Tire & Rubber Company

**CORPORATE COMMUNICATIONS COMMITTEE**

James Archibald, Director, Corporate Advertising  
Coastal Corporation

**PRINT ADVERTISING COMMITTEE**

Donald Connors, Manager, Print Operations  
Best Foods, A Division of CPC International, Inc.

**PRINT ADVERTISING COMMITTEE (CONT'D)**

Gayle Compton Huff, National Advertising Director  
Jockey International

Sue Brush, Director, Corporate Communications  
Westin Hotels & Resorts

**PROMOTION/MERCHANDISING COMMITTEE**

Harvey Popolow, Manager, Promotions  
Pepsi-Cola Company

**RADIO ADVERTISING COMMITTEE**

Elizabeth Chase, Manager, Media Operations  
General Motors Corporation

F. Ross Crusemann, Director, Marketing Services  
Motel 6, L.P.

**TELEPHONE DIRECTORY ADVERTISING COMMITTEE**

Frank Yaconis  
Jeep Eagle Dealer Advertising Manager  
Chrysler Corporation

**TELEVISION ADVERTISING COMMITTEE**

David Patten, Director of Advertising  
MCI Telecommunications Corporation

Rick Rock, Vice President, Media  
Pepsi-Cola Company

Robert Viscardi, Media Director  
Best Foods, A Division of CPC International, Inc.

**TELEVISION COMMERCIAL PRODUCTION MANAGEMENT  
TASK GROUP OF THE ADVERTISING MANAGEMENT COMMITTEE**

Foster Beeuwkes, Manager, Advertising Production  
Coca-Cola Company

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## **Legislative and Regulatory Report**

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The information in this legislative/regulatory report is correct  
as of June 5, 1989.

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## Federal Issues

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### Federal Advertising Taxes

A.N.A. continues to prepare for advertising tax threats at the federal level. The Lexecon study on the economic effects of changes in the current tax treatment of advertising costs is well underway. A briefing on the progress of the study was conducted by Nobel Laureate in Economics George Stigler on April 19th for members of the Advertising Tax Coalition.

The Advertising Tax Coalition (ATC) was established in 1988 to develop political and economic arguments to counteract any federal advertising tax proposal. In addition to A.N.A., the ATC's members include the National Association of Broadcasters, the American Newspaper Publishers Association, the Direct Marketing Association, the American Advertising Federation, the American Association of Advertising Agencies, the Yellow Pages Publishers Association, and the Magazine Publishers of America. The Coalition, in conjunction with a number of media groups, engaged Lexecon Inc. to examine the economic and tax treatment of advertising costs and to critique earlier economic studies that are being used to buttress proposals to limit the tax deductibility of advertising.

In related developments, speaking to the A.N.A. Board of Directors on May 4th, Senator Bob Packwood (R-OR), ranking Republican of the Finance Committee, warned that the door was wide open for increased taxes next year. Senator Packwood stated that advertising could be considered as an option in FY 1990 but stated his opposition to such a proposal. Also, Rep. Sam Gibbons (D-Fla.), speaking to A.N.A.'s Advertising Financial Management Conference at Innisbrook in Tarpon Springs, Florida on May 8th, stated his strong opposition to proposals to limit the deductibility of advertising business expenses.

*A.N.A. President DeWitt Helm welcomes Rep. Sam Gibbons (D-FL), our breakfast guest speaker at the Advertising Financial Management Conference at Innisbrook in Florida. Dan Jaffe, EVP, government relations, introduced the Congressman.*



## **Children's Television**

On April 6, 1989, A.N.A. testified before the Subcommittee on Telecommunications and Finance of the House Energy and Commerce Committee in opposition to legislation restricting the number of commercial minutes during children's programming. In his remarks, A.N.A. President DeWitt Helm warned that the imposition of arbitrary limits on the amount of advertising time during children's programming would undermine Congress's goal of increasing the quality and quantity of children's television and invite increased efforts aimed at censoring program content. He further pointed out that restrictions on advertising time are both unconstitutional and unnecessary. Nevertheless, the full House Energy and Commerce Committee approved H.R. 1677, the "Children's Television Act of 1989" on April 11th.

H.R. 1677 is identical to legislation approved in the last Congress but vetoed by President Reagan. It would limit advertising time during children's programming to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays. The bill also requires the FCC to consider at the time of license renewal whether a broadcaster has served the educational and informational needs of children in its programming. A Senate companion measure, S. 707, was introduced on April 5th by Senator Howard Metzenbaum (D-OH); hearings have been scheduled for July 12th on this bill.

The Justice Department recently said it believes H.R. 1677 is unconstitutional and it is prepared to recommend a veto of the bill to President Bush if it passes the Congress.

## **Tobacco Advertising**

Several proposals to limit tobacco advertising and promotion have been introduced in the United States House and Senate in the last two months.

In the Senate, Senator Bill Bradley (D-NJ) introduced legislation (S. 776) that would disallow totally the federal tax deduction for advertising and promotion expenses for tobacco products. A similar bill (H.R. 1544) has been introduced in the House by Rep. Fortney Stark (D-CA). In addition, a second Bradley bill (S. 777) would require a warning concerning the addictive nature of tobacco products to be added to the four already existing series of rotating health warnings. In the House, Rep. Jim Slattery (D-KS) has introduced a similar bill  
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(H.R. 1171), which would require an addiction warning to be added to all packages and advertisements. This bill, unlike the Bradley legislation, for the first time would require two health warnings on all advertising and packaging of tobacco products.

Other important omnibus bills -- H.R. 1493 which was offered by Congressman Mike Synar (D-OK) and H.R. 1250 introduced by Congressman Thomas Luken (D-OH) -- have been introduced in the House to restrict severely the advertising and promotion of tobacco products. Among their many provisions, these bills would prohibit all tobacco advertisements from using pictures, colors, models, symbols and brand name logos. In addition, the Luken bill would restrict the type size of all advertising text while the Synar proposal would permit text-only tobacco advertisements. A.N.A.'s position is that these bills would create unprecedented levels of government censorship and are, in effect, advertising bans in sheep's clothing.

A.N.A., in coordination with the other members of the Freedom to Advertise Coalition (American Association of Advertising Agencies, American Advertising Federation, Magazine Publishers Association, Outdoor Advertising Association of America, Point of Purchase Advertising Institute), has participated in detailed meetings with virtually every member of the House subcommittees having a major interest in tobacco advertising and has contacted members of the Senate who have jurisdiction over this issue stating A.N.A.'s objections to legislation that would unconstitutionally restrict or ban the truthful, nondeceptive advertising of tobacco products.

### **Telemarketing Fraud Prevention**

 The Telemarketing Fraud Prevention Act of 1989 (H.R. 1354), was approved by the House Subcommittee on Transportation and Hazardous Materials on April 25, 1989. It must now be considered by the full House Committee on Energy and Commerce.

A.N.A. Executive Vice President for Government Relations Dan Jaffe recently testified in regard to this legislation pointing out serious problems with the bill. Several were corrected before the Subcommittee approved the proposal, however the bill continues to allow the state attorneys general to sue in any Federal district court in regard to broad areas of telemarketing fraud in interstate commerce. A.N.A. believes this provision inevitably would lead to regulatory inconsistencies, further erode the authority of the F.T.C. and detrimentally impact interstate commerce. A.N.A. believes the F.T.C. should





*Members of the House Subcommittee on Transportation and Hazardous Materials listened to A.N.A. testimony and made changes in the telemarketing fraud prevention bill, but more work is needed to retain primary jurisdiction in this area for the F.T.C.*

have primary jurisdiction in this area.

While a telemarketing bill has not been introduced in the Senate, Senator Richard Bryan (D-NV), chairman of the Consumer Subcommittee of the Commerce, Science and Transportation Committee, speaking to the A.N.A. Board of Directors on May 5th, stated his intent to move a telemarketing fraud prevention bill during this Congress.

### **Surgeon General's Report on Drunk Driving**

Surgeon General C. Everett Koop released his final report and recommendations concerning his Workshop on Drunk Driving on May 31st. The Workshop, which took place last December, was comprised of eleven panels including a panel on advertising and marketing issues.

A.N.A. was pleased that the Surgeon General declined to endorse the sweeping recommendations of the Workshop's Advertising and Marketing Panel to limit the tax deductibility of alcohol advertising and promotion expenses, to extend warning labels to alcohol advertisements, to ban alcohol advertising and promotion on college campuses, and to limit the use in alcohol advertising of celebrities who have a "strong appeal to youth." A.N.A. remains firm in its belief that these measures would constitute an inappropriate and ineffective response to solving the problems of drunk driving.

The Surgeon General, however, did endorse two proposals related to alcohol advertising. These proposals are:

- ☐ Matching the level of alcoholic beverage advertising with equivalent exposure for pro-health and pro-safety messages; and

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## **Federal Issues cont'd**

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- ☐ Restricting certain types of advertising and marketing practices, especially those which reach underage youth, through voluntary restraints by alcohol beverage producers and distributors, as well as by the media and entertainment industry.


A.N.A. takes strong exception to the Surgeon General's proposal to require, in effect, one-to-one matching of alcohol advertisements with "pro-health and pro-safety messages." A.N.A. believes there is no basis for such a proposal. The F.T.C., in a comprehensive review of the scientific literature, found that the evidence overwhelmingly failed to support a causal connection between alcohol advertising and alcohol abuse. Therefore, to place a "matching requirement" on advertisers and the media in the alcohol advertising area would not only be unprecedented but totally unwarranted.

The Surgeon General's other proposal calls for "voluntary restrictions," a phrase so vague and ambiguous that it will need further clarification before an appropriate response to it can be formulated.

A.N.A. pledged to continue to cooperate with all segments of society concerned with combating alcohol abuse and drunk driving in the United States. In this regard, A.N.A. intends to work through The Advertising Council to continue to foster and maintain the level of effort that has produced the hundreds of millions of dollars in public service advertising directed to these problems in the last several years. A.N.A., however, believes that attempting to restrict the truthful, nondeceptive advertising of alcohol products will only divert and dissipate society's efforts to come to grips meaningfully and effectively with these problems of major national significance.

The Surgeon General's report is the subject of hearings to be held June 15th and 21st by the Senate Governmental Affairs Committee chaired by Senator John Glenn (D-OH). A.N.A. will have the opportunity to express its objections and reservations regarding the Surgeon General's recommendations when we testify before the Committee on June 21st.


### **Fairness Doctrine**

 Speedy passage of legislation to codify the Fairness Doctrine appears a virtual certainty as key committees in both the House and Senate have approved identical bills reinstituting the former Federal Communications Commission (FCC) policy. The House Energy and Commerce Committee approved its

Fairness Doctrine bill, H.R. 315, by voice vote on April 11th, clearing the measure for floor consideration. The Senate companion measure, S. 577, was approved by the full Committee on Commerce, Science and Transportation on April 18th.

Legislation to codify the Fairness Doctrine was approved by the Congress in 1987 but was vetoed by President Reagan. While President Bush has not yet stated his intentions with regard to the current legislation, he did say recently that he "... will stand with the previous position that I was a part of in the last administration." Bush, however, has so far stopped short of pledging to veto the Fairness Doctrine legislation.

### **"Must Carry"**

 A host of bills have been introduced in the 101st Congress dealing with cable television regulation and in particular implementation of "must carry" rules.

Identical legislation was introduced early in the legislative year in the House (H.R. 109) and the Senate (S. 177) to make a cable operator's compulsory license conditional on whether the operator provides adequate carriage of local broadcast signals. No hearings have been scheduled in either chamber on these bills.

Senator Howard Metzenbaum (D-OH), chairman of the Antitrust Subcommittee of the Judiciary Committee, held hearings on cable regulation on April 12th. During the hearing the National Association of Broadcasters announced its support for "must carry" rules and rules which would prevent cable companies from shifting a station's signal from one channel location to another less prominent one. Negotiations between the cable industry and broadcasters on mutually agreeable "must carry" rules which could be presented to Congress reportedly are not progressing smoothly because of the broadcasters' insistence that any "must carry" legislation contain a channel repositioning provision.

A.N.A. consistently has supported reimposition of strong "must carry" requirements for cable. A.N.A. believes that without "must carry" rules cable operators are in a position to use their monopoly position in many areas throughout the country to undermine competitors and to weaken a healthy broadcast environment to the detriment of advertisers and the viewing public.

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## **Federal Trade Commission**

### **F.T.C. Reauthorization**

The Consumer Subcommittee of the Senate Commerce Committee held hearings on the reauthorization of the Federal Trade Commission on June 7th and 8th. A.N.A. testified on June 7th. A.N.A. continues to support a ban on the use of "unfairness" by the F.T.C. for across-the-board rulemaking. A.N.A. stated that "unfairness" is a totally vague concept which is strictly in the eye of the beholder. Two or three unelected commissioners of the F.T.C. should not be allowed to regulate under such undefined mandate. The House has yet to schedule any hearings on this legislation.

### **F.T.C./FCC Appointments**

Janet Steiger, Chairwoman of the Postal Rate Commission and a long-time Bush family friend, was nominated on May 11th to succeed Daniel Oliver as chairman of the F.T.C. If confirmed by the Senate, Ms. Steiger will fill a seven-year term. Simultaneously, President Bush nominated Deborah Kaye Owen, a Washington attorney and legal aide to former President Ronald Reagan, to take the place of interim Reagan appointee Margot Machol on the F.T.C. With these appointments the F.T.C. will be fully staffed.

The composition of the Federal Communications Commission also is changing. FCC Chairman Dennis Patrick recently announced he will be leaving the FCC as soon as his replacement is named. Current speculation on who will be named focuses on Sherris Marshall, a former aide to Chairman Patrick and now a Washington attorney, to take over as head of the FCC. Others whose names have been mentioned for one of the two open FCC seats include Andrew Barrett, a member of the Illinois Commerce Commission; Jim Smith, a Washington communications lawyer; and Ira Goldman, an aide to California Senator Pete Wilson.

### **Meyer Guides Revision**

Last October the F.T.C. announced its intention to review and possibly amend the Commission's Guides on Advertising Allowances, also known as the Meyer Guides. According to the F.T.C., the Meyer Guides were designed to help businesses "avoid violating the laws against giving or receiving improper promotional allowances, including advertising or special services, for promoting products."

Prior to initiating any revision of the existing Guides, the F.T.C. invited the public to submit comments on the proposed changes. Approximately 200 comments were received, including a submission by A.N.A. With the assistance of our Cooperative Advertising & Trade Support Committee, the Association wrote the F.T.C. on February 13, 1989:

A.N.A. opposes inclusion of the "value" standard in defining proportional equality in circumstances where it would give certain buyers, especially those with major bargaining clout, an opportunity to demand excessive allowances on the assertion that the seller is allegedly receiving additional "value" for a particular type of promotional service. Demands by buyers for excessive allowances will likely increase dramatically if the "value" standard is adopted. Protestations by a seller that it would be cost-prohibitive for it to develop the "reliable evidence" needed to validate paying the excessive amounts could hardly be expected to endear it to a buyer.

Additionally, although not specifically included in the request for comments by the Commission, Chairman Oliver proposes eliminating the *per se* illegality of buyer inducement. A.N.A. opposes this proposed change since buyers should not be on a different legal standard from sellers, especially when it is the buyer who induces the discriminatory allowance.

The Commission currently is reviewing all the comments it has received. No time frame for adoption of the Meyer Guide revisions has been provided by the F.T.C., but personnel changes on the Commission (see related story) may delay implementation in the immediate future of any significant changes in the twenty year old guides.

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